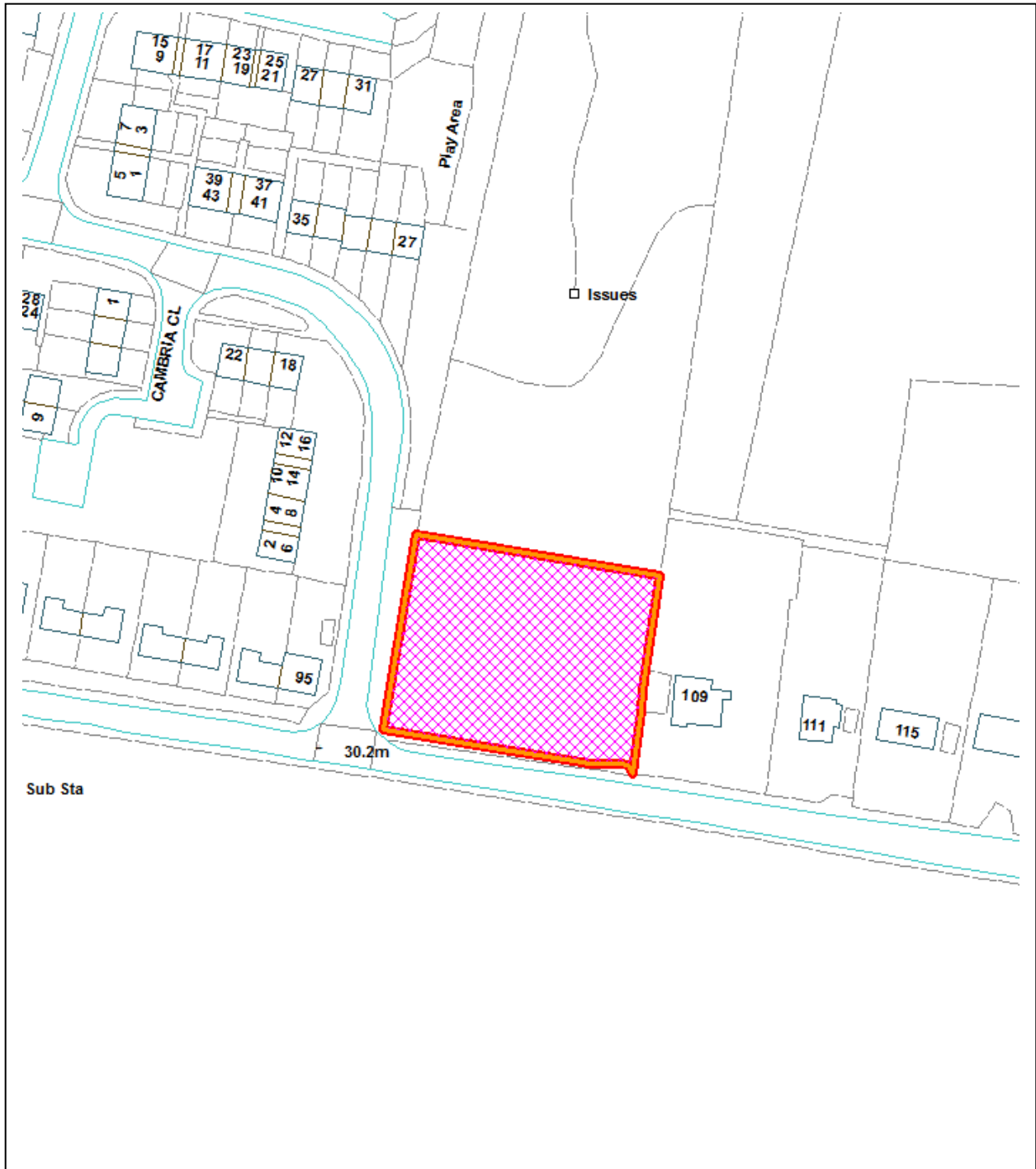


PLANNING COMMITTEE

6 JANUARY 2015

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATIONS - 14/01462/OUT - LAND ADJACENT 109 HARWICH ROAD, MISTLEY, CO11 2DN



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Application:	14/01462/OUT	Town / Parish: Mistley Parish Council
Applicant:	Rose (Builders) Properties Ltd	
Address:	Land adjacent 109 Harwich Road, Mistley CO11 2DN	
Development:	The erection of 4 new dwellings and associated works.	

1. Executive Summary

- 1.1 The application site lies outside of any defined settlement development boundaries as set out in the Tendring District Local Plan (2007) or the Tendring District Local Plan Proposed Submission Draft (2012). Policies within these plans seek to restrict development to within the settlement development boundaries.
- 1.2 Outside of these boundaries Policy QL1 of the Tendring District Local Plan (2007) and Policy SD5 of the Tendring District Local Plan Proposed Submission Draft (201) states that permission is to be refused for new residential development subject to specified exceptions.
- 1.3 The National Planning Policy Framework however sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.4 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.5 Paragraph 14 of the NPPF sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 1.6 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.7 Officers conclude that the proposed development would satisfy the 3 dimensions of 'sustainable development' whilst also being able to achieve a development that would comply with Policies QL9, QL10 and QL11 of the Tendring District Local Plan (2007) as well as Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012).

Recommendation: Approve

That the Head of Planning (or equivalent authorised officer) be authorised to grant outline planning permission for the development subject to:-

- a) Within 3 months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:

- Public Open Space Contribution Provision.

b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

(i) Conditions:

1. Details of reserved matters
2. Application for approval of the reserved matters
3. Time scales for commencement to avoid nesting season
4. No more than 4 no. dwellings
5. Construction Method Statement to include:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) wheel and under-body washing facilities
6. Location and design of the proposed private drive
7. Minimum vehicular visibility splays
8. No unbound materials
9. Off street parking details
10. Details of gates
11. Vehicular turning facility
12. Details of materials
13. Closure of existing access
14. Garage details
15. Width of carriageways
16. Domestic proposed vehicular access details

c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse outline planning permission in the event that such legal agreement has not been completed within the period of 3 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through S106 planning obligation, contrary to saved policy COM6 of the Tendring District Local Plan (2007) and draft policy PEO22 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

2. Planning Policy

National Policy:

NPPF National Planning Policy Framework

Local Plan Policy:

Tendring District Local Plan 2007

QL1 *Spatial Strategy*
 QL2 *Promoting Transport Choice*
 QL9 *Design of New Development*
 QL11 *Environmental Impacts and Compatibility of Uses*

HG1 *Housing Provision*
 HG3 *Residential Development Within Defined Settlements*

EN1	<i>Landscape Character</i>
EN5a	<i>Area proposed as an extension to the Suffolk Coast and Heath AONB</i>
TR1A	<i>Development Affecting Highways</i>
TR7	<i>Vehicle Parking at New Development</i>
COM6	<i>Provision of Recreational Open Space for New Residential Development</i>
Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014)	
SD1	<i>Presumption in Favour of Sustainable Development</i>
SD4	<i>Smaller Rural Settlements</i>
SD5	<i>Managing Growth</i>
SD8	<i>Transport and Accessibility</i>
SD9	<i>Design of New Development</i>
PEO1	<i>Housing Supply</i>
PEO4	<i>Standards for New Housing</i>
PEO22	<i>Green Infrastructure in New Residential Development</i>
PLA5	<i>The Countryside Landscape</i>

3. **Relevant Planning History**

None directly relevant.

4. **Consultations**

4.1 The Highway Authority raises no objection subject to:-

1. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed in precise accord with the details shown in Drawing Numbered 10780/HW2 Revision D and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority. Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.
2. Prior to the proposed access being brought into use, vehicular visibility splays of 45m by 2.4m by 45m, as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.
3. No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the highway or proposed highway boundary. Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. The existing access shown on the submitted plan shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new access is brought into use. Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.
5. Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose. Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.
6. All off street parking shall be in precise accord with the details contained within the current Parking Standards. Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.
7. Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.
8. Any proposed carriageways within the site should be constructed to 6m in width. Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.
9. Prior to commencement of the proposed development, details of the provision for the storage of bicycles for each dwelling, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose. Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.
10. Prior to occupation of the proposed development, each domestic proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority. Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative 1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO1 – Essex Highways Colchester Highways Depot, 910 The Crescent, Colchester. CO4 9QQ.

Informative 2: The Highway Authority welcomes the new / improved pedestrian facilities.

5. Representations

- 5.1 Mistley Parish Council makes no objection to the planning application, but recommends a standing area for refuse as access road is likely to be too narrow for Refuse Collection Vehicle.
- 5.2 One letter has been received from an immediate neighbour raising the following issues (officer's comments in brackets):
- Number of properties (Considered within officer's report and as application is in outline this could still change).
 - Type of properties (To be considered at reserved matters stage, but will be required to reflect the character of the area).
 - Layout of site (Considered within officer's report)
 - Increased Traffic (Considered within officer's report)
 - Further development
 - Landscaping (To be considered at reserved matters stage)
 - Boundaries (To be considered at reserved matters stage)
 - Impact on wildlife (Condition will be imposed with regard to nesting birds while the applicant will be informed what steps to take should protected species be found on site during construction).

6. Assessment

Site context

- 6.1 This section of Harwich Road comprises a linear form of development with a mixed character resulting from dwellings of varying scale, bulk, design and appearance. In the immediate vicinity of the site, development is characterised by a number of large detached dwellings as well as some semi-detached and terraced properties.
- 6.2 The site is located to the west of the residential curtilage of 109 Harwich Road. The western boundary of the application site is screened from the residential properties within the settlement development boundary by a mature hedge. To the north and south of the site lie mainly open agricultural fields.
- 6.3 The site itself is mainly laid to grass and forms part of a larger field. The site measures approximately 45m in depth and has an average width of 59m with currently an existing field access immediately adjacent to the eastern boundary with 109 Harwich Road which will be stopped up as part of the proposal.

Proposal

- 6.4 The current application seeks outline consent with all matters reserved for the construction of 4 dwellings with garages on the application site as defined within this application. Access to the site would be through a single access and egress point onto Harwich Road.
- 6.5 The applicants have indicated that housing density along this section of Harwich Road ranges from 6 dwellings per hectare to 30 dwellings per hectare. On this basis it is anticipated that the 15 dwellings per hectare proposed would be an appropriate density for this site.
- 6.6 Officers also anticipate that there would be sufficient land available to allow for substantial landscaping of the site most notably to the southern, eastern and northern boundaries.

- 6.7 The site is accessed from an existing field access immediately adjacent to the eastern boundary with 109 Harwich Road. This access will be stopped up as part of the proposal with a new access being created.
- 6.8 The main issues for consideration are:
- whether the site would be suitable for housing having regard to the principles of sustainable development
 - the effect of the proposed development on the character and appearance of the surrounding area

Suitability of the site for housing

- 6.9 The application site is located immediately to the west of the residential dwelling at 109 Harwich Road. The site is adjacent to but outside the village development boundary as defined within the Tendring District Local Plan, 2007 which aims to restrict new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.10 Mistley is identified as a town within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that an amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.11 Chapter 6 of the National Planning Policy Framework (NPPF) seeks to secure the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.12 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that the Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 6.13 This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.14 Members should note that whilst the Council has published the Tendring District Local Plan Proposed Submission Draft (2012), the document is yet to be submitted to the Secretary of State and formal adoption cannot take place before it has been examined, consulted on and found to be sound and until that time the relevant emerging policies may possibly be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.15 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

- 6.16 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social and
 - environmental roles.
- 6.17 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.
- 6.18 Officers consider that the proposal would contribute economically to the area and so meets the economic arm of sustainable development.
- 6.19 In terms of the social role, the site is within close proximity of some community services with a small shop and a post office within walking distance of the site. Mistley is also on a bus route and there are bus stops in Harwich Road within walking distance to the west of the site.
- 6.20 In addition it is noted that Mistley has been identified as an urban settlement within the district in Policy SD2 of the Tendring District Local Plan Proposed Submission Draft (2012). Policy SD2 states that these settlements will be the focus for the majority of the district's economic growth through the identification of new employment sites, investment in town centres, tourist attractions and key infrastructure and/or the regeneration of deprived neighbourhoods. Whilst the policy has limited weight at this stage, it goes some way to illustrate the sustainability credentials for the village.
- 6.21 Overall officers consider that the application site performs reasonably in terms of the social role within the definition of sustainability.
- 6.22 Further it is noted that the site is located outside but immediately adjacent to the development boundary for Mistley whilst it has been included within the development boundaries as identified within the Emerging Local Plan (2012) Focussed Changes. On this basis officers are of the view that if this site was inside the development boundary it would, subject to the location of the proposed properties to reflect the development pattern in the area, have resulted in the outline application being approved.
- 6.23 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site immediately adjoins the Settlement Development Boundary (SDB) in the 2007 Adopted and 2012 Draft Local Plan while being inside the focussed changes (SDB) with a number of residential dwellings to the north west, west and east of the site.
- 6.24 As a result development at the scale proposed would effectively mirror existing development to the east and west along Harwich Road and fill in the gap between. On this basis officers consider that a more pragmatic approach is justified in this instance.

Character and appearance

- 6.25 The application is in outline with all matters reserved. However, the Design and Access Statement submitted with the application suggests that the development would comprise 4 No. residential dwellings. It is considered that given the size of the site sufficient space would be available to accommodate dwellings that would comply with the Councils requirements with regard to internal floor space, parking provision and amenity space.

- 6.26 As has been stated earlier it should be noted that the position of dwellings should follow the prevailing linear development in the vicinity. Failing to have regard to the established pattern of development would result in a development that would be harmful to the established character of the area contrary to relevant Local Plan Policies.
- 6.27 Although design and appearance do not form part of the consideration of this outline application, it is considered that the site is capable of accommodating 4 dwellings in a way that would not result in any adverse impact on the character and appearance of the surroundings and therefore, the proposed development would comply with the third environmental arm and the overarching aims of the NPPF in respect of its definition of sustainable development.

Neighbouring Amenity

- 6.28 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) supports these objectives and states that 'development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.29 The application is in outline form and officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of the adjoining neighbours at No's 95 or 109 Harwich Road or the future occupiers of the proposed dwellings.

Highway Considerations

- 6.30 Policy QL10 of the Adopted Plan (2007) states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. This requirement is also carried forward to Policy SD9 of the Draft Plan (2012).
- 6.31 Essex County Council Highways have been consulted on the application (see above for full comments). They raise no objection to the principle of a single point of access, to serve 4 dwellings.
- 6.32 Notwithstanding the above the Councils Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces are provided. Parking spaces should measure 5.5 metres by 2.9 metres and any garages, if being relied on to provide parking spaces should measure 7 metres by 3 metres. It is considered that the site is capable of accommodating this level of parking.

AONB

- 6.33 The application site is located within the proposed extension of the Suffolk Coast and Heaths AONB which runs along the northern shore of the Stour Estuary.
- 6.34 The area proposed for extension of the Suffolk Coast and Heaths AONB as indicated on the Proposals Map, is considered to be of comparable quality and character to the existing AONB by virtue of the following attributes;
- Rural character with steep wooded and agricultural slopes enclosing and containing the open water, saltings and mudflats of the estuary;

- Tranquil and predominantly undeveloped character extending to the water's edge;
- Views to and across the open water of the estuary and forming a distinctive backdrop for views from the open water and the northern estuary slopes in Suffolk;
- Historic port settlements including Mistley and Manningtree providing important landmarks;
- Estuarine and intertidal habitats forming a part of the Stour Estuary Special Protection Area (SPA) of international importance for wading birds and wildfowl;
- Presence of large houses and associated designed landscapes including Nether Hall and Wrabness Hall.

6.35 Although the area of land to which Policy EN5a applies is not AONB. the Council feels that it is an area of countryside where it is particularly important to protect the natural beauty of the local landscape. Therefore within and adjoining the area concerned there should be special care in the management of new development.

6.36 Having considered the above officers are of the view that whilst the scheme would result in the infilling of an open wedge of land the development would not be read any differently from the established pattern of development immediately to the north, east and west of the site when viewed from the Stour Estuary to the north. In addition as this is an application with all matters reserved the final design and appearance of the proposed dwellings can be negotiated to have regard to the recognised quality of the area.

6.37 On this basis officer's conclude that the development of this site with 4 dwellings would not have a material impact on any of the attributes identified a significant within the AONB.

Open Space

6.38 Policy COM6 of the Adopted Tendring District Local Plan (2007) states that residential development below 1.5 hectares in size, where existing public open space facilities are inadequate, shall provide a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of the future occupiers of the development. This requirement is also set out in Policy PEO22 of the Draft Plan.

6.39 Whilst no completed UU has been received at the time of writing this report the applicants have indicated that they intend to finalise such an agreement to secure a financial contribution to open space provision prior to the Planning Committee to be held on the 6th January 2015.

Background Papers

None.